EXHIBIT 17

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO. 18-2356H

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

THE NEW ENGLAND INSTITUTE OF ART, LLC and EDUCATION MANAGEMENT CORPORATION

Defendants.

COMPLAINT

2018 JUL 30 P 1:20

INTRODUCTION

1. The Commonwealth of Massachusetts, by and through the Office of Attorney General Maura Healey (the "AGO"), brings this enforcement action in the public interest pursuant to the Massachusetts Consumer Protection Act, G.L. c. 93A, § 4. The Commonwealth alleges that The New England Institute of Art, LLC ("NEIA"), a Massachusetts-based for-profit school, and its parent company, Education Management Corporation ("EDMC") (each also referred to as a "Defendant" or collectively as "Defendants"), engaged in unfair or deceptive acts or practices by, among other things, actively targeting and aggressively recruiting prospective students by misrepresenting NEIA's "in field" job placement rates, its capacity to provide job search assistance to students and recent graduates, and the cost of attendance and availability of financial aid.

2. The Commonwealth is seeking civil damages in the form of restitution, including a refund to students of all unfairly or deceptively procured tuition and/or fees; civil penalties of $5,000 per violation; and the AGO's reasonable attorneys' fees and costs incurred in the investigation and prosecution of this matter. The Commonwealth is also seeking permanent injunctive relief in the form of an order prohibiting Defendants from continuing to harm former students who were deceived by Defendants, including through the pursuit and collection of outstanding student loans and other school-related debts.

3. NEIA was a for-profit arts college located in Brookline, Massachusetts. Since at least 2010, the school repeatedly deceived and misled existing and prospective students to bolster enrollment and increase revenues – and, ultimately, profits – for both itself and EDMC.

4. Nearly all NEIA students incurred substantial debt to pay the school's steep tuition and fees, yet upon graduation, most have been unable to secure employment in their field of study and/or have been consistently under-employed.[1] Many of these individuals are now, or soon will be, unable to afford their student loan payments. When individuals default or become delinquent on their student loans their access to credit is severely impaired. Their future wages, if any, may be garnished and their student loans are generally not dischargeable in bankruptcy.

5. Because the vast majority of student loans are backed by the federal government, the costs of default are borne not by NEIA and EDMC, but ultimately by students and taxpayers. For-profit schools like NEIA are enriched by student loans in the form of tuition and fees paid by students, while assuming none of the associated underwriting risk.

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[1] In 2017, the U.S. Department of Education released the first official Gainful Employment ("GE") Rates under the governing regulations. The purpose of these regulations is to monitor schools' claims regarding their success in placing graduates in suitable jobs. Of the 11 NEIA programs evaluated, 6 failed the GE standard, and 3 received a "zone" designation, meaning there was still cause for concern regarding those programs.

6. Former NEIA students in contact with the AGO have freely expressed their anger and frustration. For example, a 2011 graduate of NEIA's *Audio & Media Technology (Bachelor's)* program reports feeling "scammed and cheated." He added, "I feel like a prisoner to my six-figure debt. Six-figure debt at 22 years of age."

7. A graduate of NEIA's *Photography (Associate's)* program reports being initially "intrigued by [the school's] high statistics of job placement post-graduation," but added that these statistics "turned out to be grossly exaggerated." She continued as follows:

> "It became clear very quickly that my field did not even necessarily require a degree and that outside of starting my own business (not an interest of mine), my options were extremely limited. This place is/was a crock. My 20-year old self was manipulated by grandiose promises that were nothing but lies. I am now the owner of a $60,000 piece of paper."

JURISDICTION AND VENUE

8. Under G.L. c. 93A, § 4, the AGO has a statutory mandate to protect the public from entities that engage in unfair or deceptive acts or practices in the conduct of business in Massachusetts. This mandate includes the authority to bring the present action.

9. This Court has subject matter and personal jurisdiction in this action pursuant to G.L. c. 93A, § 4 and G.L. c. 223A, §§ 3(a)-(b), respectively. Venue is proper in Suffolk County pursuant to G.L. c. 223, § 5 and G.L. c. 93A, § 4.

PARTIES

10. The Plaintiff is the Commonwealth of Massachusetts, represented by the AGO, who brings this action in the public interest to remedy Defendants' unlawful conduct and to enjoin future unlawful acts.

11. Defendant NEIA is a limited liability company with a principal place of business at 10 Brookline Place West in Brookline, Massachusetts. In May 2015, NEIA announced that it

would cease enrollment and close the school after "teaching out" its remaining students. NEIA ceased operations on or around December 31, 2017.

12. Defendant EDMC is a for-profit Pennsylvania corporation with a principal place of business at 210 Sixth Avenue in Pittsburgh, Pennsylvania. EDMC purchased NEIA in 1999. In 2017, EDMC sold the majority of its for-profit schools to the Dream Center Foundation, a non-profit entity; however NEIA was not included in the sale. At all times relevant to this Complaint, EDMC owned and operated NEIA.[2]

STATEMENT OF FACTS

I. For-Profit Schools

13. For-profit schools, which award various types of degrees and certificates, are owned and operated by for-profit businesses. *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success,* United States Senate, Health, Education, Labor and Pensions Committee, p. 1 (July 30, 2012) ("Senate Report"). Like any for-profit business, a principal function of these entities is to produce returns for their owners and shareholders (*id.*).

14. This profits-driven approach comes at a price, undermining the educational and career goals typically associated with post-secondary education. In particular, a significant portion of students from for-profit schools are unable to obtain employment, or are either underemployed or become employed in completely unrelated fields (*id.*, p. 7). As a result, they are unable to afford their loan payments, resulting in delinquency or even default. Federal loan

[2] On June 29, 2018 EDMC filed for bankruptcy under Chapter 7 of Title 11 of the United States Code. As an action commenced "by a governmental unit … to enforce such governmental unit's … police and regulatory power," the present lawsuit is exempted from the bankruptcy code's automatic stay. See 11 U.S.C. §362(b)(4).

default rates for 2014 college graduates amply illustrate this phenomenon: while 4-year, non-profit colleges have default rates of between 7% and 7.5%, the rate for analogous for-profit colleges is 14.6%. NEIA's corresponding default rate is 13.1%.

15. For-profit schools have been widely criticized for their routine use of misleading and deceptive marketing practices and aggressive recruiting techniques (*id.*, p. 176). Among other things, these schools falsely market themselves as highly selective, while their recruiters are trained to create a false sense of urgency to enroll, and to identify and exploit prospective students in dire financial straits, suggesting a degree or certificate from the school will solve students' financial woes. These tactics have proved all too effective at enrolling vulnerable students and thus generating revenues for these schools.

II. NEIA Degree Programs

16. Prior to closing, NEIA offered associate's and bachelor's degrees in media arts, design, and fashion retail management. Tuition averaged $49,000 for NEIA's 2-year program and $95,000 for its 4-year program, exclusive of room and board or cost of living. NEIA advertised these programs as vocational training, offering "hands-on" experience and career preparedness.

17. The majority of NEIA students paid a significant portion of their tuition with federal grants or loans authorized under Title IV of the Higher Education Act of 1965 ("Title IV"), with more than 90% graduating with debt. In fiscal years 2010 to 2016, NEIA collected tuition and fees totaling more than $130 million, of which at least 60% were Title IV dollars. As a practical matter, this meant students (or their parents) were responsible to repay these interest-bearing student loans.

18. By way of example, of the 232 students who were still enrolled at NEIA in 2015, 218 (or 94%) had taken out at least one federal loan.[3] These students (and/or their parents) borrowed a total of over $9 million to pay NEIA's tuition – and almost certainly borrowed more, as most were scheduled to graduate after 2015, thus adding one or more additional years of tuition to their debt load.

19. According to Defendants, the average debt load for NEIA graduates between 2009 and 2012 was over $53,000. This figure, however, does not include amounts owed directly to NEIA. Because students could rarely afford to pay the balance owed directly to NEIA in one lump sum, the school offered installment contracts, which operate much like auto loan or other retail installment contracts, charging interest[4] and levying fees and other penalties for late or skipped payments. In 2011 students had over $5 million in installment contract balances. NEIA did not include the unpaid balance on these contracts in calculating the debt load of its graduates, yet this debt has been actively pursued by NEIA, both during and after students' tenure at the school.

20. While enrolled, students were hounded by NEIA to make payments on their installment contracts. Among other things, students report being frequently called out of class to make payments directly to the bursar's office. Graduates behind on their installment contract payments report being pursued by debt collectors. NEIA would also push these graduates to enter deferment or forbearance plans with respect to their federal loans, thereby lowering the school's reported cohort default rate[5] while at the same time freeing up cash for more installment

[3] Five of the remaining fourteen students utilized veteran's benefits to help pay tuition.
[4] Retail installment contracts issued by NEIA charged an annual percentage rate of 12% through at least 2011. By 2015, NEIA had lowered the APR to 3.36%.
[5] A cohort default rate is the percentage of a school's borrowers who enter the repayment period on federal loans during a particular federal fiscal year and default on those loans. Schools that report a default rate of 30% or greater

contract payments to NEIA. NEIA students also report having significant private loans in addition to their federal loans, resulting in debt loads of unmanageable proportions. As one former student noted, "I ended up with $110,000 in [private and federal] student loans. … I only make enough [to pay] for my bills at this point and have no way of saving in order to make a future for myself."

III. Defendants' Unfair or Deceptive Acts or Practices

21. Since at least 2010, Defendants have engaged in unfair or deceptive practices in the recruitment and enrollment of students. These practices include aggressive sales tactics and misrepresentations to consumers and prospective students. Many of these unfair and deceptive practices are perpetrated through the admissions process.

A. Aggressive Sales Tactics

22. The beginning of the admissions process involved a prospective student speaking with a recruiter who self-identified as "the" Assistant Director of Admissions ("ADA"), a tactic which was meant to conceal the fact that the prospective student was actually only speaking with a recruiter. The job title not only deceived prospective students, it also deceived prospective employees. One former ADA believed he was applying for a job as *the* Assistant Director of Admissions and was surprised to learn that there were at least 20 other people who held the same title.

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for three consecutive years are at risk of losing access to Title IV funds. Therefore, schools like NEIA lower their reported default rate by steering borrowers who are about to default into deferment or forbearance plans. As a result, these schools avoid sanctions by the Department of Education, continue to have access to Title IV funds, and prospective students are unaware that, in fact, many more borrowers are struggling to repay their loans. Indeed, while NEIA's official 2010 federal cohort default rate was 17.1%, in disclosures required under 940 CMR 31.00, NEIA calculated that an additional 32.9 % of borrowers in the cohort were in deferment or forbearance. In total, 50% of borrowers were in default, deferment or forbearance in the 2010 cohort year.

23. EDMC required each newly hired ADA to attend a national training program before they began recruiting at various EDMC schools, including NEIA. EDMC conducted the training, which included reviewing sample scripts ADAs were to use in their recruitment practices. Additionally, a former ADA reported that whenever NEIA was deemed to be "underperforming" in its enrollment numbers, employees from EDMC came to the school and re-trained the ADAs by conducting role-playing sessions and emphasizing "the importance of sticking to the script."

24. Each NEIA ADA had to meet weekly quotas with respect to phone calls made, appointments scheduled, and students enrolled. ADAs who did not meet their quotas were ultimately terminated. Among other things, NEIA required its recruiters to make hundreds of telephone calls a week, including from 3 to 7 calls per day to each prospective student – until the recruiter was able to actually speak with the individual. The goal of each call was to convince the prospective student to visit NEIA as soon as possible, preferably that same day or the next day. Former NEIA ADAs describe the environment of the admissions department as high-pressured and toxic.

25. Former students report being called and e-mailed relentlessly once they expressed even the slightest interest in the school.

- "Once they have your information, they are ruthless."
- "They called a little excessively like there was some rush to sign up."
- "My experience was very rushed. I was promptly set up with a meeting with NEIA, they stressed their job placement was exceptional."
- "The process was quick with get[ting] loan [money] and [I] was offered pre-acceptance in order to start sooner. … I received calls every day since the open house to apply now. This happened for more than a month."

- "It was a little annoying, honestly. I received many phone calls and emails often ...It seemed like they rushed me in."
- "It was like every day a new phone call or email came through. It was too much! I felt so pressured to enroll and then told whatever I wanted to hear to enroll. Little to none of the information was accurate."

26. Rather than focus on prospective students with a stated interest in NEIA's programs, recruiters were indiscriminate. Internal EDMC documents show that, of the individuals who ultimately spoke to an ADA, only 5% understood the difference between specialized and traditional education, knew about NEIA's particular programs, or even expressed an interest in higher education.

27. Indeed, NEIA recruiters chased down every possible lead, no matter the source and no matter how obtained. EDMC, like many for-profit schools, purchased consumer information from online and other lead generators. ADAs would also generate "leads" by asking prospective students if they knew anyone who might be interested in NEIA. In addition, NEIA personnel would give "informational" presentations at high schools and community colleges and use the sign-in sheets to begin aggressively recruiting individuals who had attended. If prospective students wavered as to their interest in NEIA, ADAs would convince them they were a "good fit" based on the most attenuated of circumstances. For example, ADAs were trained by EDMC to tell prospective students that hobbies such as "doodling," "watching HGTV shows," and "surfing the web" made them ideal candidates for one or more of NEIA's programs.

28. NEIA recruiters were trained by EDMC to ensure that if a prospective student came for an "interview," he or she would not leave without also applying to the school and, critically, visiting the financial aid office. According to internal EDMC documents, it was expected that between 30% and 45% of prospective students who submitted applications and

signed enrollment agreements would cancel their enrollments. Therefore, to prevent prospective students from canceling, once an application was submitted, EDMC required ADAs to "Call [the students] the very next day. Keep the dream alive. … Keep in contact on a regular basis" and invite them to "lock-in events."

29. One student described the breakneck speed with which she was recruited and enrolled at NEIA:

> "The enrollment process was very intense as in how quickly the recruiters wanted me to begin classes. I inquired about the school in general in late December. I received a call back on January 4 … [the recruiter] was very eager to get me into the school for a tour. We scheduled a tour for that Thursday, January 6 … After the tour … [the recruiter] assured me we could move the proper process very quickly so that I [could] be enrolled in classes for Monday. …[W]e went back to the main building and started doing paperwork to get me enrolled. That night I applied for multiple loans, filled out the [NEIA] application and didn't leave there until about 11:00 PM. The following days I would submit my essay … and more loan documents."

30. Defendants' aggressive tactics proved highly successful. Defendants aggressively recruited unsophisticated consumers, rushed them through the enrollment process, and induced them to enroll into programs costing upwards of $100,000 with dubious job prospects.

B. Misrepresentations

31. In addition to enduring an aggressive enrollment process, prospective students were given false or misleading information by Defendants. One student reported that the representations made by recruiters were "very comforting but all false," amounting to little more than telling her "whatever [she] wanted to hear to [make her] enroll."

1. *False and/or Misleading Representations Concerning NEIA's Selectivity*

32. EDMC trained ADAs to tell prospective students that they needed to meet with the prospective students in order to determine their suitability to the school. During the recruitment process, ADAs were required by EDMC to tell prospective students that they were a "good fit" for the school to encourage them to apply. As one student reported, "I was foolishly recruited by some admissions counselor who made me think I was qualified to get in when in reality they accept anyone who has money or a heartbeat."

33. Indeed, NEIA accepted nearly everyone who applied, regardless of their ability to succeed. NEIA effectively operated on an "open admissions school" basis, meaning that the only requirement for admission was a high school diploma or GED. Applicants to NEIA were not required to submit scores from college entrance exams. NEIA purportedly required prospective students to complete an essay as part of their application. If an applicant did not have an essay prepared at the time of the interview, an ADA would bring the applicant to a computer on campus to type an essay on the spot, sometimes even helping the applicant to complete it. Further still, according to at least one former ADA, these essays were never actually evaluated, thus their quality and substance were irrelevant. Instead, they were used to paint a false picture of the school's selectivity.

34. NEIA furthered its appearance of selectivity by falsely reporting to the Department of Education that its acceptance rate, a number that was publicly available to prospective students, ranged from 42.9% to 27.6% between fiscal years 2010 and 2013. However, when its accreditor expressed concerns about declining enrollment, NEIA explained in a 2012 report to the accreditor that its true acceptance rate during this period increased from

96.4% in fiscal year 2010 to 100% in fiscal year 2013. NEIA further explained how it had been calculating the acceptance rate:

> "For our purposes, we do not consider a student to be accepted until they have completed financial aid packaging. As a result of using that definition, we have a low acceptance rate and an extremely high enrollment rate. … We have substituted the figures for a more traditional definition of acceptance, academic acceptance by the Admissions Committee of the Faculty. This shows a more accurate picture of a high acceptance rate and a moderate enrollment rate."

35. NEIA's attrition rate is further evidence of its lack of selectivity and the true mismatch between most students and the school. Defendants relied heavily on the purported career successes of its graduates during the recruitment process, discussed *infra*, but failed to disclose to prospective students that, since 2010, more than 60% of students who enrolled in NEIA did not complete their selected program.[6] Notably, this attrition rate was consistent across EDMC schools, all of which were for-profit entities.

36. Students who left the school nonetheless attended, on average, for about 44 weeks prior to withdrawal. Thus, they incurred significant, non-refundable costs of attendance, which they were responsible to pay directly to the school and/or through federal and private loans. These former students have no degree, few transferable credits, and no increased earning capacity; instead, for their efforts, they have been saddled with debt that is all but impossible to discharge.

[6] In addition to enrolling unqualified students, NEIA knowingly enrolled students who required accommodations the school would be unable or unwilling to provide. Former students have complained to the AGO that NEIA failed to accommodate certain disabilities despite promising to do so during the admissions process. EDMC trained ADAs to tell prospective students that the school is "committed to providing qualified students with disabilities equal opportunities to access the benefits of school services, programs, and activities." Former students have reported that when they did not receive the accommodation or support they expected from the school, they were forced to withdraw from the program.

37. As one former NEIA employee stated, "In all, the admission process was simply a sales pitch. Any student, regardless of high school grades, performance or ability to be a lifelong learner were not taken into account. … If they signed up – they became a student."

38. NEIA's representations that its admissions were in any way selective were demonstrably false, and were made for the purpose of, and had the effect of, inducing students to enroll in NEIA, collecting tuition money and maintaining accreditation for NEIA.

2. False and/or Misleading Representations Concerning Job Placement Rates

39. Since at least 2010 or earlier, a key part of Defendants' recruiting efforts involved written and oral statements concerning NEIA's historical success in placing students in jobs in their field of study.

40. Defendants' marketing materials described NEIA's programs as, among other things, "providing [an] education in creative yet employable fields," allowing prospective students to "turn your creativity into a career" and "make your living doing what you love."

41. Defendants misled prospective students into believing they could expect full-time employment in their field of study. Internal EDMC documents show that ADAs were trained to inform prospective students that "the goal of the career services department is to assist graduates in obtaining full time employment in their field of study." The 2010 placement statistics brochure provided to prospective students also states that Career Services will "help you pursue full-time work after graduation." EDMC required the ADAs to read the job placement statistics verbatim from a brochure produced by EDMC. However, neither the brochures nor the ADAs disclosed that the school's statistics included part-time jobs.

42. In brochures and on its website, NEIA claimed its overall job placement rate for 2010 graduates was over 89%, with rates in individual programs as high as 98% (*Audio & Media Technology*). But, these rates were misleading, and designed to lure students into enrolling at NEIA. To start, the rates include part-time jobs when students were left with the impression that NEIA was designed to secure them full-time employment. The rates also include jobs unrelated to the graduate's field of study. Thus, in reality, the school's placement rates for in field, full-time, non-temporary employment ranged from just 26% to 60% in five of its programs.[7]

43. Defendants' failure to disclose to prospective students that many of its graduates were only able to obtain part-time employment was unfair and deceptive.

44. The placement statistics provided by Defendants are calculated based on information obtained by Career Service Advisors (CSAs) at NEIA. Defendants required CSAs at NEIA to confirm graduate employment by obtaining written or verbal employment verification from employers or graduates. CSAs were required by EDMC to obtain verification of the placed graduate's job title, job duties, and the hours the graduate worked.

45. Defendants utilized a variety of manipulative techniques to inflate their placement statistics. Defendants (i) falsely represented the existence of a job with an employer despite evidence the student was not so employed; (ii) falsified job titles; (iii) counted jobs that were not in the students' field of study; (iv) counted short-term jobs as permanent; (v) overestimated students' earnings; (vi) used incorrect verification forms and (vii) counted jobs graduates held before graduating from, or even enrolling in, NEIA.

[7] Pursuant to 940 CMR 31.00, NEIA began in 2014 to formally report the full-time employment rates of its graduates from each program. On average, only 34.7% of NEIA graduates during the 2012-2103 calendar years obtained full-time non-temporary jobs in their field of study.

46. Some of the manipulative techniques used by CSAs were required by EDMC's Career Statistical Reporting Procedures and Graduate Employment Procedures (collectively, "EDMC's procedures"). Firstly, EDMC directed CSAs to count as placed any graduate working in a job as long as the graduate was using 25% of the core skills learned in the graduate's program for 25% of the time in his/her employment. According to former CSA Amanda Lobdell, Career Services did not consider it relevant whether the graduate's degree was necessary to obtain the job. As a result of this low standard prescribed by EDMC, CSAs counted customer service, retail, and administrative positions as placements. Defendants included these jobs in the placement statistics provided to prospective students.

47. EDMC also directed CSAs to count short-term jobs as permanent as well as overestimate graduates' earnings in such jobs. EDMC's procedures state that a graduate is considered employed "as long as [the graduate] worked at least one day. No additional days on the job are required as long as the grad went to a job that fit their skill level."

48. CSAs were expected to count essentially any in-field or related job, regardless of how short its duration, provided that the job could be characterized as meeting a minimum annual salary. From 2008 through 2012, the minimum salary ranged from $10,500 to $12,000. To calculate that salary, EDMC required CSAs to "annualize" the reported hourly wage by calculating what the graduate could earn in the job in 12 months, regardless of the actual length of employment. Therefore, even in instances where a graduate was employed in a seasonal or temporary position, CSAs "annualized" the reported earnings to be able to include the graduate as "employed" in the job placement statistics provided to prospective students. In one such instance, a 2010 *Graphic Design* graduate was offered a temporary contract position, with a wage of $15 per hour on a contract "not to exceed $3,000." NEIA nevertheless annualized the

reported wages to $31,250, which allowed Defendants to count this graduate as employed. In another instance, several 2010 graduates of the *Digital Film and Video Production* program obtained summer seasonal positions. Even though NEIA knew these jobs were short-term, NEIA CSAs annualized the reported wages, creating the appearance that these graduates obtained permanent, rather than short-term, employment, thereby falsely inflating the 2010 placement rates.

49. EDMC further required CSAs to count as placements related jobs that a graduate held long before graduating from, or even enrolling at, NEIA, provided that the job could be characterized as meeting the relatedness requirement and the graduate desired to remain in the position. NEIA included at least 10 such jobs in its 2010 placement statistics.

50. Despite EDMC's low standards for counting a job as a placement, CSAs nevertheless also engaged in manipulative techniques to inflate the job placement and salary statistics in violation of EDMC's procedures, including manipulating job titles and falsifying earnings data, thus inflating the job placement statistics even further.

51. EDMC's procedures repeatedly state that it was preferable to obtain written employment verification from an employer rather than a student. In deposition testimony, NEIA's former President and Director of Career Services, John Lay, stated that it was preferable to obtain employment verification from employers because students were known to be unreliable, and often exaggerated the details of their own employment. And yet, the overwhelming majority of employment verification forms were, at least purportedly, completed by students. Former CSA Amanda Lobdell confirmed that if she first obtained verification from a graduate, she did not attempt to confirm any of the employment details with the employer. NEIA knew that the information on most of the forms was, for these and other reasons discussed below, unreliable.

Nevertheless, Defendants used this information, not to ensure that graduates were employed in related and sustainable jobs, but instead to create the appearance that they were so employed for the purposes of inflating placement rates to recruit prospective students.

52. The information NEIA recorded was unreliable for a variety of reasons. In some instances, despite what a graduate reported, the CSA manipulated enough of the information provided either verbally or in writing to record a graduate as a placement. For example, a graduate from the *Graphic Design* program self-reported on his verification form only that he was working as an intern for the Disney College Program. The CSA inexplicably reported that the graduate was employed as a graphic designer, when, in reality, he was working in guest transportation.

53. EDMC required CSAs to obtain written verification for at least 75% of graduates in each cohort. To meet the quota, in addition to the techniques referenced above, CSAs made students sign verification forms in blank so that the CSAs could fill in employment details themselves at a later date. In a review of 161 student-signed employment verification forms for 2010 graduates, nearly 40% had been substantively completed by CSAs. This process allowed CSAs to exaggerate or fabricate information to purportedly meet the employment verification standards under EDMC's procedures.

54. For example, a graduate from the *Interior Design* program stated in an email to a CSA that while she was still working at a retail store where she had been employed for 5 years prior to graduating from NEIA, she was looking for in-field employment and asked the CSA to forward her job leads. In notes accompanying the verification form, the CSA recorded, however, that the graduate "is open to looking at jobs but is not in a huge rush since she likes her current position and is well compensated." The CSA purposely misrepresented the contents of the graduate's email and completed the verification form herself. Because the graduate had

previously signed the form in blank, it created the appearance that the graduate was verifying that she had obtained in-field employment, when she was actually still looking for a job. The graduate was reported by Defendants as an in-field placement. In another example, the CSA substantively completed the form of a graduate who was working as a sales associate at an office supply store. The form, having been signed in blank by the graduate, was completed by the CSA to claim the student was instead employed as a graphic designer. This graduate was reported by Defendants as an in-field placement.

55. When they could not obtain, or fabricate, a verification resulting in a placement, CSAs tried to have the graduates confirm details of their employment as being even tangentially related to the field.[8] One former CSA explained in an e-mail to a graduate seeking placement assistance, "I only have until the end of this month to work with April grads, not a lot of time to find you something …. So, I would like to account for you in another way." The CSA proceeded to ask the graduate whether any of her job responsibilities at a framing shop, where she had been working for at least a year, were related to design, even though the student graduated from the *Media Arts & Animation* program. This graduate was reported by Defendants as an in-field placement.

56. Furthermore, CSAs often would count freelance employment as a placement without obtaining sufficient information from the graduate, thereby assiduously avoiding the procedures EDMC purported to ensure that such "jobs" were real and sustainable.

57. As a result of Defendants' various manipulative techniques, the job placement statistics included many unrelated or inadequate jobs, including the following:

- Unpaid internships

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[8] Such efforts by EDMC Career Service Advisors were also highlighted in the Harkin Report, discussed *infra*.

- Entry-level retail sales associates/cashiers
- A job that lasted 20 hours in total
- A job where a graduate worked 7 hours per week
- Related and unrelated jobs obtained years before enrollment or graduation

58. In its 2008 Statistical Reporting Procedures, EDMC explained that its Career Services Central Staff in Pittsburgh reviewed each graduating class' employment statistics, and audited the information to ensure, among other things, that the position titles were field-related, salaries were calculated correctly, and full employment details were available. EDMC communicated with NEIA about the types of falsifications and shortcuts it typically found in the placement data, including unrelated jobs, jobs with no documentation that the job was confirmed or verified, and overestimated salaries. EDMC reported the employment statistics internally and externally, including to prospective students, employers and the investment community. Furthermore, all materials distributed to students or graduates, such as the placement statistics brochures, had to be approved by the Business Practices Committee at the Central Staff Office in Pittsburgh. EDMC was responsible for auditing the employment data reported by NEIA[9], and despite knowing that these and other verification issues were prevalent at its schools, nevertheless published the placement rate brochures based on insufficient, incorrect, and falsified data.

59. Notably in 2012, after increased government scrutiny, EDMC revised several of its employment verification procedures. EDMC no longer allowed NEIA to count many retail or

[9]According to deposition testimony of Amanda Lobdell, a former CSA at NEIA, EDMC also visited NEIA to audit the physical files underlying the reported statistics. EDMC also required NEIA's Career Services department to conduct annual internal audits of the employment verification process.

sales associate positions as in-field placements. EDMC also formally established rules that seemed to address the issue of CSAs fraudulently completing the employment verification forms themselves. First, new information could not be added to an employment verification form once the graduate had signed the form, and second, employees could not allow students to sign blank verification forms.

60. Defendants' promises of job placement and representations regarding placement rates were false and misleading. Defendants misrepresented to prospective students that NEIA had exceptionally high rates of "in field" employment, when Defendants knew, or should have known, that its placement statistics were materially inaccurate. As discussed above, while Defendants reported placement rates between 70% and 98%, the actual placement rates were between 26% and 60%. And, when considering the attrition rate (typically about 65%), the likelihood that a recently enrolled student would graduate *and* obtain such a job is even lower, with the placement rate dropping further to 10-15%. Thus, NEIA's true placement rates paint a much darker picture: graduates were unlikely to find full-time employment in their field, which almost certainly meant their income would fail to cover their high loan costs.

61. Despite knowing of their affirmative misrepresentations and omissions, NEIA and EDMC aggressively used false placement rates to recruit students.

62. Many former students were persuaded to attend NEIA based on its seemingly-stellar job placement statistics. Over 80 students have reported to the AGO that Defendants touted high placement rates to convince them to enroll in the school. Student statements concerning these misrepresentations include the following:

- "NEIA used their job statistics as a selling point that convinced us we'd be able to afford the loan payments."

- "The enrollment process was them preaching about the 100% job placement they had, and the charts of how much I could make to start in the industry. These were huge reasons I joined NEIA and it was a complete lie."

- "I distinctly remember [the ADA] telling me that 90% of their students are employed in their field of study within 6 months of graduating, and that the school is well-known for finding their students employment in the film industry. It was this specific claim that encouraged me to enroll."

- "[T]hey told me that a high percentage of their graduates get a job in their chosen field almost immediately."

- "I was told I would have a job in the field of Animation right out of school."

- "I was told that graduation from my program had a 90% employment rate within the field."

- "I was told job placement was impeccable (nearly all graduates placed within a year of graduating) and my degree would be affordable [as compared] to my income. This was a LIE!"

3. False and/or Misleading Representations Concerning Job Placement Services

63. In addition to falsifying placement rates, Defendants also misled prospective students regarding the services NEIA would provide and assistance NEIA would render in helping graduates to obtain employment. Representations regarding job placement services were important to Defendants in "selling" the school to prospective students. They also helped to quell potential skepticism regarding the inflated placement rates. A sample script provided to ADAs by EDMC suggested that ADAs tell prospective students that "[A] big difference between us and other schools is our employment assistance provided by our Career Services Department, which is the hallmark of the Art Institutes." EDMC also trained ADAs to tell prospective students that the Career Services department "provides students with job leads that match their interests and qualifications."

64. Despite these representations, students approaching graduation generally received little or no assistance from the school's Career Services office. More than 60 former students have expressed their dismay to the AGO about their experience with Career Services. Among other things, former students report:

- "The career services department was no help at all. … Their advice was to search yelp.com, elance.com, outsource.com and craigslist.org."
- "NEIA was no help in finding [a] job or internship. They tell you … they have all these connections and they really don't. … [The] school falsely advertised [its] ratio of student[s] to job[s] after graduation. Counted any job, not just job[s] in field."
- "I was misled in terms of receiving help finding employment. I have received no help from the school in finding a job and my e-mails have never been answered …"
- "A lot of the jobs [the career advisor] would send my way were jobs that did not [pay] enough for me to even cover my loans. A lot of the jobs would be minimum wage or definitely below what I needed an [sic] order to sustain a living and pay my loans."

65. CSAs were far more concerned with confirming graduates' employments than they were with helping students find in-field and sustainable jobs. Due to EDMC's statistical reporting requirements, CSAs had a limited amount of time to work with each group of graduates. As was noted in the CSA e-mail above, it was easier to confirm the graduate's current employment (regardless of what the position was) than it was to help a graduate find an in-field and sustainable job. Thus, despite Defendants' representations to the contrary, the goal of Career Services was not to help students pursue full-time employment. The goal of Career Services was to verify the employment of as many graduates as possible, no matter if the job was unrelated or unsustainable, for the purpose of representing high placement rates to recruit prospective students. NEIA's representations concerning its placement services were false and misleading, made merely to induce students to enroll at the school.

4. False and/or Misleading Representations Related to Costs and Financial Aid

66. NEIA made false statements and/or failed to provide material information to consumers and prospective students concerning the cost of attendance and financial aid.

67. Defendants knew the cost of attendance was a significant concern to prospective students, as this was cited by EDMC as one of the most common reasons prospective students withdrew their application or canceled their enrollment. Accordingly, Defendants trained ADAs to downplay these concerns. A sample EDMC script for use by ADAs highlights this effort:

> "[T]he majority of our applicants are able to make their education affordable through a variety of financial resources. Can you see how if you take the cost of the education and subtract from it any resources for which you qualify, and know that the Financial Aid Officer will work out a financial plan that will help you cover the balance of the costs either through the use of alternative loans, in school payment plans, personal contributions and scholarships, how these costs can be made manageable?"

68. Although EDMC stated in its training materials that "there are a limited number of institutional scholarships for students who meet certain criteria," Defendants often referred to scholarship opportunities in marketing materials. Additionally, all prospective students were provided with an application for the "Merit" based scholarship, despite that such scholarships were also limited in availability. Defendants deceived prospective students into believing that scholarship opportunities were more available than they actually were, thereby adding to the false impression that prospective students would be able to afford NEIA's steep tuition and fees.

69. Former students report having over $100,000 in student loan debt after attending NEIA, and others report they were unable to finish their degree due to the high tuition and fees. The average institutional aid (including scholarships and grants) provided to first-time, full-time students enrolling between 2010 and 2014 was less than $3000.

70. One former student reports that she "come[s] from a poor family", yet was assured by NEIA officials the school would be affordable. In the end, the school's promise

proved meaningless. Describing herself as "misled" and "fooled by my admissions experience at NEIA," the student added,

> "Had I known I'd be unable to get a profitable career in my field of study and my mom would be … hundreds of thousands of dollars in debt …… I never would have chosen NEIA. Attending NEIA is truly the biggest mistake I've ever made and I'll be paying the consequences [for] the rest of my life."

71. In fact, Defendants knew that the education was not affordable for most of its students where, as explained above, half of the borrowers who left NEIA between April 2009 and March 2010, were in default, deferment or forbearance on their federal loans. When marketing to prospective students and convincing them they would find a way to pay for school, NEIA and EDMC failed to tell them about the staggering default and non-repayment rates.

72. Defendants also routinely overbilled students for incorrect tuition amounts, including charging students for more credit hours in a semester than the number of hours for which they were in fact enrolled. In a review of 196 Student Financial Plan Projections[10] provided by NEIA to enrolled students, 87 contained incorrect tuition amounts. While some students report that they noticed discrepancies and had their bills corrected, those who did not have been overcharged by the school and have been forced to bear the additional cost as part of their ongoing debt.

73. Incorrect billing affected not only students with federal loans, but also students who used Veteran's education benefits. In 2016, Veteran's Affairs conducted a routine compliance survey and discovered that the school had been incorrectly calculating tuition charges for students who had withdrawn or reduced their credit hours. The survey showed that

[10] NEIA provided Student Financial Plan Projections to students who were enrolled at the time the teach-out was announced in 2015. While the plans were intended to provide students forward-looking cost information, the plans also included past tuition and fee charges. The vast majority of incorrect tuition charges are reflected in the past tuition and fee charges.

NEIA's failure to accurately and promptly report tuition charges and its failure to report the status of students who had withdrawn resulted in overpayments of Veteran's education benefits in excess of $40,000.

74. Defendants' misrepresentations concerning cost of attendance and available financial aid were false and misleading, made for the sole purpose of inducing students to enroll and pay NEIA's steep tuition costs.

CAUSES OF ACTION

Count One

(Violations of G.L. c. 93A)

75. The Commonwealth repeats and realleges paragraphs 1 through 74 of this Complaint.

76. The Defendants have engaged in unfair or deceptive acts or practices in violation of G.L. c. 93A, § 2. Such unfair or deceptive acts or practices include without limitation the following:

A. NEIA and EDMC made false and/or misleading representations to Massachusetts consumers and its accreditor concerning its selectivity.

B. NEIA and EDMC made false and/or misleading representations to Massachusetts consumers concerning job placement by manipulating and artificially inflating its job placement rates.

C. NEIA and EDMC made false and/or misleading representations to Massachusetts consumers concerning the placement services it would provide to students.

D. NEIA and EDMC made false and/or misleading representations to Massachusetts consumers concerning the nature and availability of financial aid, thereby failing to disclose or actively concealing the true cost of attendance.

E. The above false and/or misleading representations include affirmative statements and material omissions.

77. Defendants' false and/or misleading representations to Massachusetts consumers were material, and said misrepresentations deceived, or had the tendency or capacity to deceive, Massachusetts consumers, inducing them to enroll at NEIA and pay its tuition and fees.

78. Defendants knew or should have known that the misrepresentations discussed above were false and/or misleading, and that their acts or practices were unfair and deceptive in violation of G.L. c. 93A, § 2.

79. Defendants were paid tuition and fees by reason of their unfair or deceptive acts or practices, causing harm to Massachusetts consumers in the form of ascertainable financial losses.

Count Two

(Violations of 940 CMR 3.10 and 3.16)

80. The Commonwealth repeats and realleges paragraphs 1 through 79 of this Complaint.

81. The Defendants have engaged in unfair or deceptive acts or practices in violation of 940 CMR 3.10 and 3.16. Such unfair or deceptive acts or practices include without limitation the following:

A. NEIA and EDMC violated the terms of 940 CMR 3.10 and 3.16.

B. NEIA and EDMC made false or deceptive statements or representations to Massachusetts consumers by misrepresenting the school's selectivity.

C. NEIA and EDMC induced the enrollment and/or retention of students that it knew, or had reason to know, were unfit to attend the school, by reason of educational or other material disqualification.

D. NEIA and EDMC made false or deceptive statements or representations to Massachusetts consumers in its promotional materials, on websites, and through recruiting efforts concerning NEIA's ability to secure suitable employment for its graduates.

E. NEIA and EDMC made false or deceptive statements or representations to Massachusetts consumers concerning the nature and scope of employment opportunities available to its students and graduates.

F. NEIA and EDMC made false or deceptive statements or representations to Massachusetts consumers concerning the services it would provide in support of students' efforts to secure suitable employment after graduation.

G. NEIA and EDMC made false or deceptive statements or representations to Massachusetts consumers concerning the financial aid available to its students.

H. The above false and or misleading representations include affirmative statements and material omissions.

82. Defendants' false and/or misleading representations to Massachusetts consumers were material, and said misrepresentations deceived, or had the tendency or capacity to deceive, Massachusetts consumers, inducing them to enroll at NEIA and pay its tuition and fees.

83. Defendants knew or should have known that the misrepresentations discussed above were false and/or misleading, and that their acts or practices were unfair and deceptive in violation of 940 CMR 3.10 and 3.16.

84. Defendants were paid tuition and fees by reason of their unfair or deceptive acts or practices, causing harm to Massachusetts consumers and others in the form of ascertainable financial and other losses.

RELIEF REQUESTED

WHEREFORE, the Commonwealth requests that this Court:

A. Order Defendants to fix damages in the form of full and complete restitution to former NEIA students, including but not limited to repayment of all amounts paid by such students to NEIA comprising tuition and fees.

B. Order Defendants to pay the Commonwealth civil penalties of $5,000 for each separate violation of G.L. c. 93A, § 2, as well as its reasonable attorney's fees and costs incurred in the investigation and prosecution of this lawsuit.

C. Order Defendants to cease the pursuit and collection of outstanding student loans and other school-related debts owed by former students who were deceived by Defendants.

D. Grant such other and further relief as this Court deems just and proper.

Respectfully Submitted,

COMMONWEALTH OF MASSACHUSETTS

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